



***Protecting victims of harmful traditional practices: the Convention on preventing and combating violence against women and domestic violence (CAHVIO)***

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***UNHCR-Intact conference, Brussels***

***22 November 2011***





# CoE Convention

## PACE Resolutions

Dec. 2008: CAHVIO to draft convention

Purpose: set legally binding standards for all forms of violence against women

Take into account existing regional and universal HR standards, gender equality, criminal law and judicial cooperation, incl. ECtHR caselaw

UNHCR: early engagement with CAHVIO in context of supervisory responsibility



# Ratifications

- Adopted by Council of Ministers and opened for signature 11 May 2011, Istanbul
- 17 signatures: Austria, Finland, France, Germany, Greece, Iceland, Luxembourg, Montenegro, Norway, Portugal, Slovakia, Slovenia, Spain, Sweden, fYROM, Turkey, Ukraine
- No ratification yet



# Traditional practices

- Sexual violence, including rape (Art. 36)
- Forced marriage (Art. 37)
- Female genital mutilation (Art. 38)
- Forced abortion and forced sterilisation (Art. 39)
- Unacceptable justifications for crimes, including so-called “honour” crimes (Art. 42)



# Migration & Asylum

- Residence status (Art. 59)
- Gender-based asylum claims (Art. 60)
- Non-refoulement (Art. 61)



# Art. 59 – Residence status

- 1. Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law.
- 2. Parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status dependent on that of the spouse or partner as recognised by internal law to enable them to apply for an autonomous residence permit.



# Art. 59 – Residence status

- 3. Parties shall issue a renewable residence permit to victims in one of the two following situations, or in both:
  - a where the competent authority considers that their stay is necessary owing to their personal situation;
  - b where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.
- 4. Parties shall take the necessary legislative or other measures to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status.



# Art. 60 Gender-based asylum claims

- 1. Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the [refugee definition] and as a form of serious harm giving rise to complementary/subsidiary protection.
- 2. Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.
- 3. Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection





# Art. 61- Non-Refoulement

1. Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.
2. Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.



# Added Value - Asylum

- Gender-specific violence may amount to persecution
- Requirement for gender-sensitive interpretation of each of the 1951 Convention grounds
- Obligation to develop gender-sensitive reception procedures
- Obligation to develop gender-sensitive support services for asylum-seekers
- Re-affirms well-established international and regional standards - clear articulation of their relevance to gender-based violence in asylum system



# Added Value - Residence

- Risk of losing residence status: not impediment to victims leaving abusive and violent marriage or relationship
- Autonomous residence permit to be granted in particularly difficult circumstances
- Protection from expulsion
- Obligation to issue victims of domestic violence with renewable residence permits under conditions



Thank You!

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